

BILLY J. WILLIAMS
United States Attorney
District of Oregon

JEAN E. WILLIAMS
Deputy Assistant Attorney General
Environment and Natural Resources Division

JOHN P. TUSTIN (TX Bar No. 24056453)
Senior Attorney
EMMA HAMILTON (CA Bar No. 325360)
Trial Attorney
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611
Phone: (202) 305-3022 (Tustin)
(202) 305-0479 (Hamilton)
Fax: (202) 305-0506
john.tustin@usdoj.gov
emma.hamilton@usdoj.gov

Attorneys for Federal Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION**

KLAMATH-SISKIYOU WILDLANDS
CENTER, OREGON WILD, *et al.*
Plaintiffs,

Case No. 1:19-CV-01810-CL

JOINT MOTION TO STAY

v.

UNITED STATES BUREAU OF
LAND MANAGEMENT
Federal Defendant,

and

MURPHY COMPANY
Intervenor-Defendant.

The Parties have conferred and jointly move to stay this case while Federal Defendant United States Bureau of Land Management (“BLM”) revises and seeks public comment on the North Landscape Project Environmental Assessment (“EA”). Plaintiffs allege BLM violated the National Environmental Policy Act and Administrative Procedure Act when it approved the North Landscape Project, a timber harvest project in southern Oregon. *See* Compl., ECF No. 1, ¶¶ 1, 71. Murphy Company intervened as a defendant. Order, ECF No. 12. Plaintiffs have also sent a 60 day notice of intent to sue to the United States Fish and Wildlife Service (“FWS”) pursuant to the Endangered Species Act; the notice period runs January 5, 2020. Absent a stay, Plaintiffs have indicated their intention to move to amend their Complaint to add claims against FWS for violations of the Endangered Species Act.

On December 17, BLM notified the parties and other members of the public that it plans to revise the North Landscape Project EA in order to consider new information.¹ BLM anticipates that the revised EA will be available in early spring 2020. The revised EA will be available for a 30-day public comment period, after which BLM will consider submitted comments and issue a revised final EA. The Parties thus move the Court to stay the case to allow BLM to issue a revised final EA and for the Parties to confer about the litigation in light of the revised final EA. The Parties propose to file a joint status report, including proposed scheduling deadlines if necessary, two weeks after BLM releases the final revised EA or by June 1, 2020, whichever is earlier.

¹ The public notification is available on BLM’s ePlanning website at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=renderDefaultPlanOrProjectSite&projectId=92695&dctmId=0b0003e880ff2ed9>.

“A district court has the inherent power to stay its proceedings; the power to stay ‘is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.’” *Oregon Wild v. Cummins*, No. 1:15-cv-01360-CL, 2017 WL 253968, at *2 (D. Or. 2017) (quoting *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)). Courts consider three factors in determining the propriety of a stay: “(1) possible damages that could result from granting the stay, (2) potential hardships that could arise from denying the stay, and (3) the stay’s expected effects on judicial resources.” *Id.* (citing *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005)).

A stay of this litigation is appropriate in light of the impending EA revision process. A stay presents no possible damages or hardship here because the Parties jointly move to stay this litigation until BLM releases the final revised EA. The stay is not indefinite, as the Parties will inform the Court about the status of the litigation no later than June 1, 2020. Judicial economy also favors a stay because the revised EA may adequately address Plaintiffs’ concerns, possibly eliminating the need for litigation, or refine the issues before the Court.

Thus, the Parties jointly move to stay this proceeding while BLM revises the EA. The Parties propose to file a joint status report two weeks after BLM releases the final revised EA or by June 1, whichever is earlier. A proposed order is attached to this joint motion for stay and will be emailed to Chambers.

Respectfully submitted on this 26th day of December, 2019.

for Plaintiffs

/s/ Susan Jane Brown (with permission)
 SUSAN JANE BROWN (OSB #054607)
 Western Environmental Law Center
 4107 NE Couch St.

Portland, OR 97232
(503) 914-1323
brown@westernlaw.org

for Federal Defendant

BILLY J. WILLIAMS
United States Attorney
District of Oregon

JEAN E. WILLIAMS
Deputy Assistant Attorney General
Environment and Natural Resources Division

JOHN P. TUSTIN (TX Bar No. 24056453)
Senior Attorney
/s/ John P. Tustin
EMMA HAMILTON (CA Bar No. 325360)
Trial Attorney
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611
Phone: (202) 305-3022 (Tustin)
(202) 305-0479 (Hamilton)
Fax: (202) 305-0506
john.tustin@usdoj.gov
emma.hamilton@usdoj.gov

for Intervenor-Defendant

/s/ Julie A. Weis (with permission)
JULIE A. WEIS, OSB No. 974320
weis@hk-law.com
Haglund Kelley LLP
200 SW Market St., Suite 1777
Portland, Oregon 97201
Phone: (503) 225-0777
Fax: (503) 225-1257